

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

State Employees Retirement Commission

Concerning

SUBJECT MATTER OF REGULATION

Time Frames for Filing Claims

(NEW) Section 5- 155a(j)-4. General Rules – Time Frames for Filing Claims

(a) No action at law or in equity can be brought to recover under the State Employee Retirement System (SERS) or any of the retirement systems administered, supervised or managed by the State Employees Retirement Commission (“Commission”) for any benefit, Tier transfer, service credit or any other related retirement benefit or payment (including but not limited to over or under payments) or claim challenging the alleged failure of the Commission to abide by a statutory dictate after the expiration of six (6) years after the member first knew or should have known with reasonable diligence of his entitlement to such a benefit, Tier transfer, service credit or other related retirement benefit or payment (including but not limited to over or under payments) or any claim challenging an alleged failure of the Commission to abide by a statutory dictate. Claims not brought within this time frame will be denied as untimely.

(b) Before pursuing legal action, a person claiming retirement benefits or seeking redress related to the retirement system(s) must first exhaust the Commission’s claim, review and appeal procedures.

(c) A member or the member's designated beneficiary shall file a written claim to the Commission to appeal the final decision by the Retirement Service Division (“Division”) that adversely affects the personal interest of the member or the member's designated beneficiary within one (1) year of the date of the final decision by the Division regarding his or her claim. Claims not brought within this time frame will be denied as untimely.

(d) The Division, on behalf of the Medical Examining Board (“Board”), will accept applications for disability retirement or petitions for service connected disability retirement with appropriate medical documentation. The time period for filing an application for disability retirement benefits or petition for service connected disability retirement shall begin on the day after the applicant's last day of paid employment by the State of Connecticut and shall end at close of business at the end of a twenty-four (24) month period.

(e) If the Board requires additional medical or other evidence in order to make a determination on an application for disability retirement benefits or petition for service connected disability retirement, the member shall have one (1) calendar year from the date of the letter requesting such information to provide it to the Board. If the requested information is not provided within this one (1) calendar year limitation, the application shall be denied. The decision of denial will be brought before the Commission for its approval as administratively denied.

(f) The member will have one (1) calendar year from the date of the Board's decision of denial to seek reconsideration of said decision. If the member does not seek reconsideration of the Board's decision of denial within said one (1) calendar year, the Board's initial decision of denial will stand. The decision of denial will be brought before the Commission for its approval as administratively denied.

(g) The member will have one year from the date he or she sought reconsideration to: (1) submit the requested records (if any); and (2) submit additional material facts concerning his or her medical condition at the date of termination of employment; and (3) explain in writing why such material facts were not available to the member at the time of his or her original application to the examining board. If the member does not provide the above information within one (1) calendar year of the date of seeking reconsideration, the Board's initial decision of denial will stand. The decision of denial will be brought before the Commission for its approval as administratively denied.

(h) If the last day of any filing period or period for submission of information as set out above is a Saturday, Sunday, or state or federal holiday, then the application shall be valid if received by the Division by the close of the next business day following the Saturday, Sunday or holiday.

(i) The Commission, in its sole discretion and after hearing held by it, may allow equitable tolling of any of the time periods set out in this regulation and thus extend the time period for filing a claim. In order to equitably toll all or a portion of said time period, a petitioner must show that extraordinary circumstances prevented him or her from filing his or her petition within the specified time period. The hearing before the Commission shall be held solely on the issue of whether extraordinary circumstances prevented the petitioner from filing a claim during the period of time at issue and shall not concern the merits of any such claim. Upon good cause shown, the Commission may extend the time frame for filing to a final and specific date certain.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

To establish and impose time limits within the administrative appeal process in which a party must bring a claim against, give notice of a claim, provide requested information or seek reconsideration of a decision of the State Employees Retirement Commission or the Medical Examining Board. These limits would create an incentive for claimants to bring their claim in a timely fashion, prevent the filing of old claims for which evidence has been lost by the passage of time and provide for timely adjudication of such claim.

The proposed provisions are summarized as follows:

- (1) There will be a six year statute of limitations to bring an action to recover at law or in equity under the State Employee Retirement System (SERS) or any of the retirement systems administered, supervised or managed by the State Employees Retirement Commission ("Commission")
- (2) The time period for filing an application for disability retirement benefits or petition for service connected disability retirement shall begin on the day after the applicant's last day of paid employment by the State of Connecticut and shall end at close of business at the end of a twenty-four (24) month period.
- (3) An applicant has one calendar year to seek reconsideration of an adverse decision of the Commission or of the Medical Examining Board.
- (4) The Commission, in its sole discretion and after hearing held by it, may allow equitable tolling of any of the time periods set out in this regulation.

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) ☒ Regulations ☐ Emergency Regulations
- 2) are (check all that apply) ☒ adopted ☐ amended ☐ repealed by this agency pursuant to the following authority(ies): (complete all that apply)
- a. Connecticut General Statutes section(s) Section 5-155a(e) and Section 5-155b .
- b. Public Act Number(s) _____.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on December 20, 2011;
(Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) And that a public hearing regarding the proposed regulations was held on January 12, 2012;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)
- ☒ When filed with the Secretary of the State
- OR ☐ on (insert date) _____

DATE 01/23/2012	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED Chairman, Retirement Commission
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
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Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

- ☐ Approved ☐ Rejected without prejudice
- ☐ Approved with technical corrections ☐ Disapproved in part, (Indicate Section Numbers disapproved only)
- ☐ Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2.
 - a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
 - b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.